

# EXHIBIT H

**EXHIBIT 1**  
**TO DECLARATION OF LISA M. COLLURA**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

**EXPERT REPORT OF  
LISA M. COLLURA, CPA, CFE, CFF**

**Proof of Transfers  
To Certain BLMIS Customers  
With "Profit Withdrawals"**

July 14, 2015

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## **I. PROFESSIONAL BACKGROUND**

1. I am a Senior Managing Director in the Forensic and Litigation Consulting practice of FTI Consulting, Inc. ("FTI"), with more than 20 years of experience in accounting, auditing and litigation consulting services. I specialize in providing forensic accounting and financial fraud investigative services in connection with internal investigations on behalf of trustees, boards of directors and audit committees of companies.
2. I have extensive experience in conducting large-scale, fact-finding investigations into fraudulent financial transactions, including tracing significant flows of funds between accounts and entities. During my career at FTI, I have assisted in the investigation of several of the largest fraud cases in the United States.
3. I am a Certified Public Accountant (CPA), a Certified Fraud Examiner (CFE), a member of the American Institute of Certified Public Accountants (AICPA) and am Certified in Financial Forensics (CFF) by the AICPA. My curriculum vitae, attached as **Exhibit 1** to this report, further describes my professional credentials, experience and qualifications, including my testimony in the last four years.

## **II. SCOPE OF ASSIGNMENT**

4. Bernard L. Madoff Investment Securities LLC ("BLMIS") was an investment firm owned and operated by Bernard L. Madoff ("Madoff"). On December 11, 2008, Madoff was arrested for violating multiple securities laws in connection with running a Ponzi scheme. On December 15, 2008, Irving H. Picard was appointed as the Trustee for the liquidation of the business of BLMIS, and Baker & Hostetler LLP was retained as his counsel. Shortly thereafter, FTI was retained by Baker & Hostetler LLP, on behalf of the Trustee, to analyze, among other things, the financial affairs of BLMIS and to assist the Trustee with the liquidation of BLMIS. As part of our engagement, FTI was tasked with the exercise of reconstructing the books and records of BLMIS, including all records of the "cash in/cash out" transactions related to the BLMIS customer accounts as far back as the records allow.

5. Matthew B. Greenblatt, also a Senior Managing Director at FTI, and a team of professionals working under his supervision, were specifically tasked with creating chronological listings of all cash and principal transactions, including cash deposit and withdrawal transactions, for every BLMIS customer account, as set forth more fully in the Expert Report of Matthew B. Greenblatt regarding the Methodology for the Principal Balance Calculation (the "Principal Balance Calculation Report").

6. The sources of cash deposit and withdrawal transactions related to BLMIS customer accounts include customer statements and other relevant information available within BLMIS's records, including Portfolio Management Reports, Portfolio Management Transaction Reports, spiral-bound notebooks, and a data table from BLMIS's computer system referred to as the "Checkbook File," which is the only available BLMIS record of cash transactions for the time period from December 1, 2008 through December 11, 2008. *See* Principal Balance Calculation Report for further discussion regarding these sources. For purposes of my report, I use the term "customer statements" to refer to these sources collectively.

7. Mr. Greenblatt and his team were also tasked with identifying a subset of cash transactions including 1) transactions referred to as "Profit Withdrawals" for which the transaction is reflected on BLMIS customer statements as "PW" and 2) transactions reflected on BLMIS customer statements as a transaction other than "PW" ("CW" or "JRNL") where the transaction description includes a reference to a third party, interest and/or dividends.<sup>1</sup> This subset of cash transactions is collectively referred to as "PW Transactions" and is described more fully in the Expert Report of Matthew B. Greenblatt dated July 14, 2015 (the "Greenblatt Report"). Out of the total approximately 91,000 PW Transactions identified in the Greenblatt Report, there were approximately 5,500 that occurred during the ten-year period from December 1998 to December 2008 for which BLMIS bank records were available (as further

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<sup>1</sup> This subset of transactions excludes ones that were subsequently cancelled but would have otherwise been considered a PW Transaction based on the criteria described above.

explained in **Section V** below). For purposes of this report, I refer to this population as the “Ten Year Period PW Transactions.”<sup>2</sup>

8. I, along with a team working under my supervision, was specifically tasked with performing forensic analyses to determine the following:

- Whether the cash deposit and withdrawal transactions as reflected on the customer statements for *all* BLMIS customers reconciled (as further explained in paragraph 9) to available BLMIS bank records;
- Whether *specifically*, the PW Transactions reflected on BLMIS customer statements reconciled to available documentation;
- Whether, based on my review of the available BLMIS bank records, the check payee or wire beneficiary information related to the Ten Year Period PW Transactions reconciled to the respective BLMIS account holder; and
- Whether, based on my review of available bank records, the Ten Year Period PW Transactions reflected on BLMIS customer statements could be traced (as further explained in paragraph 9) to bank accounts held by, or for the benefit of, the respective BLMIS account holder.

9. For purposes of this report, I use the term “reconciled” to indicate when I have matched, agreed and/or determined consistency between cash transactions, including the PW Transactions, or other information reflected on BLMIS customer statements to information or data per another source (*e.g.*, amounts on BLMIS bank records, correspondence between the customer and BLMIS regarding requests for cash withdrawals, or documents received by the Trustee from BLMIS account holders). For purposes of my report, I use the term “traced” to indicate when I have followed the flow of funds from one bank account (*e.g.*, BLMIS’s bank account) to another bank account (*e.g.*, the BLMIS account holder’s bank account).

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<sup>2</sup> Thirty-eight PW Transactions reflected on the BLMIS customer statements with dates between October 21, 1998 and November 30, 1998 were reconciled to checks that cleared the BLMIS bank accounts on or after December 1, 1998 and are therefore included in the total count of the Ten Year Period PW Transactions.

10. This report has been prepared in connection with the above-captioned proceeding and is to be used only for the specific purposes of this proceeding. It is not to be used for any other purpose without the express written consent of FTI. If called upon to testify in this matter, I intend to provide testimony regarding my analyses and conclusions consistent with this report.

11. FTI is being compensated at a rate of \$554 per hour for my professional time incurred in performing the work necessary to prepare this report. FTI's fees are not contingent on the conclusions reached in this report or the outcome of the above-captioned proceeding.

### III. METHODOLOGY

12. To determine whether the cash deposit and withdrawal transactions reflected on the customer statements for *all* BLMIS customers reconciled to available BLMIS bank records, I, using my experience as a forensic accountant and investigator, along with my staff, first identified and gathered the relevant and available records related to the BLMIS bank accounts. We then performed the following procedures:

- Reviewed hundreds of thousands of pages of records related to BLMIS's bank accounts, including monthly bank statements, cancelled checks and deposit slips, obtained from BLMIS's files and/or produced by third-party financial institutions, which cover a ten-year period from December 1998 to December 2008;
- Analyzed close to 150,000 transactions reflected within these bank records; and
- Reconciled the cash deposit and withdrawal transactions reported in the available BLMIS bank records to the cash transactions reflected on the customer statements related to *all* BLMIS customer accounts.

13. Next, to determine *specifically* whether the PW Transactions reflected on BLMIS customer statements reconciled to available documentation, I used the results of the forensic analysis of the available BLMIS bank records as described above. In addition, I reviewed and analyzed documents and records maintained at BLMIS, including documents contained in customer files related to the BLMIS customer accounts that reflected one or more of the PW



Transactions, as well as documents received by the Trustee related to BLMIS customer accounts with PW Transactions. Based on my review and analysis of these materials, I identified the PW Transactions that reconciled to these documents.

14. Next, to determine whether the check payees or wire beneficiaries related to the Ten Year Period PW Transactions reconciled to the respective BLMIS account holders, I reviewed available BLMIS bank records, including copies of cancelled checks, monthly bank statements and records related to wire transfers. Using these available bank records, I determined the check payee or wire beneficiary for each Ten Year Period PW Transaction and reconciled it to the respective BLMIS account holder.

15. Finally, to determine whether the Ten Year Period PW Transactions could be traced to bank accounts held by, or for the benefit of, the respective BLMIS account holder, I again used the available information from the BLMIS bank records as described above. In addition, I reviewed records produced to the Trustee by BLMIS account holders and third-party financial institutions related to bank accounts held by BLMIS account holders. Using these available bank records, I identified the recipients of the transfers from BLMIS.

16. The documents and data that I considered in connection with this report are listed in **Exhibit 2**. I reserve the right to supplement my report based on any additional documents or information received.

#### IV. SUMMARY OF FINDINGS

17. Based on the forensic analyses performed, as described above and throughout this report, as well as my skills, knowledge, experience, education and training that I applied to the documents and information available to me as of the date of this report, my findings are summarized as follows:

- My team and I reconciled 99% of the approximately 225,000 cash deposit and withdrawal transactions reflected on *all* BLMIS customer statements during the time-period of December 1998 to December 2008 to the available BLMIS bank records for the same time-period. The remaining 1% that we were unable to reconcile consists

primarily of withdrawal transactions for which copies of the related cancelled checks were not available. Based on the results of our reconciliation of 99% of the cash transactions, I can reasonably infer that my team and I would have been able to reconcile these withdrawal transactions had copies of the related cancelled checks been available. Only 13 transactions of this remaining 1% (representing less than 0.006% of the approximately 225,000 cash transactions) were reflected on the customer statements, but could not be reconciled to available BLMIS bank records.

- For my reconciliation analysis, I analyzed all 91,138 PW Transactions. Based on my review of available documentation, I reconciled 51,758 (more than 50%) of the 91,138 PW Transactions to available BLMIS bank records, correspondence and other documentation included in BLMIS customer files, and/or documents received by the Trustee from BLMIS account holders or other parties related to BLMIS customer accounts containing PW Transactions. I was unable to complete my reconciliation for the remaining PW Transactions primarily due to the unavailability of records related to transactions that were dated before December 1998.
- For my analysis of the check payees and/or wire beneficiaries, I analyzed the Ten Year Period PW Transactions. Of the total 5,527 Ten Year Period PW Transactions, there was available documentation in BLMIS bank records to identify the payee and/or beneficiary (*i.e.*, a cancelled check or wire transfer detail) for 5,430 of the Ten Year Period Transactions. Based on my review of these available BLMIS bank records, I reconciled the check payee or wire beneficiary to the respective BLMIS account holder for 100% of these 5,430 Ten Year Period PW Transactions.
- For my tracing analysis, I again analyzed the Ten Year Period PW Transactions. Based on available bank records from both BLMIS records and records produced to the Trustee by BLMIS account holders and third-party financial institutions, I traced 99.997% of the total amount of the Ten Year Period PW Transactions to bank accounts held by, or for the benefit of, the respective BLMIS account holder. I was unable to trace the remaining .003% of the total amount of the Ten Year Period PW Transactions because the relevant

bank records were not available or the information on the back of the cancelled check was illegible or insufficient to determine the bank account holder. However, based on the results of my tracing, I can reasonably infer that, to the extent additional bank records related to the Ten Year Period PW Transactions were to become available to me, these records would further support the results of my tracing and that I would be able to trace additional Ten Year Period PW Transactions to bank accounts held by, or for the benefit of, the respective BLMIS account holder.

## V. RECONCILIATION OF CASH TRANSACTIONS FOR ALL BLMIS CUSTOMERS

### A. OVERVIEW

18. As set forth in the Principal Balance Calculation Report, a team from FTI working under Mr. Greenblatt's supervision created chronological listings of all cash and principal transactions, including cash deposit and withdrawal transactions, for every BLMIS customer account. I was tasked with reconciling the customer cash deposit and withdrawal transactions to available BLMIS bank records to assist in the determination of whether the cash transactions reported on the customer statements for all BLMIS customers were fairly and accurately represented.

### B. BLMIS BANK ACCOUNTS

19. My team and I reviewed available bank account records for more than 90 bank and brokerage accounts in the name of either BLMIS or Bernard L. Madoff,<sup>3</sup> and found that, primarily, the following three bank accounts were used by BLMIS for customer deposits and withdrawals during at least the ten-year period from December 1998 to December 2008:<sup>4</sup>

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<sup>3</sup> See **Exhibit 3** for a listing of known bank accounts held by BLMIS and/or Bernard L. Madoff.

<sup>4</sup> Between January 2006 and April 2006, there were four customer withdrawal transactions totaling \$262,000,000 that were paid from account #xxx-xxx6-621 held at the Bank of New York (the "BONY 621 Account"). The BONY 621 Account was the primary operating account used by BLMIS's Proprietary Trading and Market Making business. In June 2006, there were two transfers totaling \$261,816,950 from the 703 Account to the BONY 621 Account, presumably to reimburse the BONY 621 Account for funding the withdrawals to BLMIS customers.

- JPMorgan Chase account #xxxxx1703 (the “703 Account”)<sup>5</sup>
- JPMorgan Chase account #xxxxxxxxxx1509 (the “509 Account”)
- Bankers Trust account #xx-xx0-599 (the “BT Account”)

20. Records for these three accounts consist of monthly bank statements, copies of deposited checks, deposit slips and cancelled checks. Records related to the 703 Account and the 509 Account were available from December 1998 to December 2008 and were obtained from BLMIS’s files as well as from JPMorgan Chase & Co. (“JPMC”).<sup>6</sup> In addition to hard copy documents, JPMC produced an electronic file that provides details of wire transfers in and out of the 703 Account from January 1, 2002 to December 11, 2008 (the “JPMC Wire File”).<sup>7</sup> Records related to the BT Account were available from December 1998 to May 1999 and were obtained from BLMIS’s files.<sup>8</sup>

21. In the aggregate, FTI had available bank records related to the BLMIS bank accounts used for customer deposits and withdrawals for a ten-year period from December 1998 to December 2008. To assist in our analysis of these bank records, which included copies of monthly bank statements and cancelled checks, we captured the transaction information from these records and converted the information into an electronic format through the use of a combination of Optical Character Recognition (OCR) software and manual entry. This

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<sup>5</sup> Personal Identifying Information has been redacted throughout this report and the accompanying exhibits in compliance with Fed. R. Bankr. P. 9037 and applicable federal and state law.

<sup>6</sup> The October 1999 bank statement for the 509 Account could not be located. However, I was able to use other available documents, such as the 703 Account statements, to estimate the activity in the 509 Account during October 1999. In addition, there is activity reflected on the monthly bank statements for the 703 Account and 509 Account for which corresponding copies of deposited checks, deposit slips and/or cancelled checks were missing from the documents produced by JPMC and/or could not be located in BLMIS’s records. As reflected in my summary of findings and other results described throughout my report, these missing documents had a minimal impact on my overall analysis and reconciliation.

<sup>7</sup> This file was missing data for transactions dated December 11, 2004 to December 31, 2004. However, we were able to use other available documents, such as the 703 Account statements, to obtain the necessary information to complete our analysis and reconciliation.

<sup>8</sup> Statements for June through August 1999, October 1999, December 1999 and July 2000 for the BT Account were also found in BLMIS’s records. However, May 1999 appears to be the last month of significant activity in the BT Account. There was no activity in the account during the months of June through August 1999, and the statements for these months showed an ending balance of \$26,523. In October 1999, the only transaction in the account was to transfer the \$26,523 remaining balance to the 703 Account and zero out the BT Account. The December 1999 and July 2000 statements for the BT Account both showed a zero balance.

electronic data, which accurately reflects the underlying records, became the basis for our reconciliation of the cash transactions reported in the BLMIS bank records to the cash deposits and withdrawals reflected on BLMIS customer statements.

### **The 703 Account**

22. Based on my review of the available BLMIS bank records, I determined that the 703 Account was the primary bank account used for BLMIS customer deposits and withdrawals. My team and I reviewed and analyzed every one of the transactions reported in the available monthly bank statements for the 703 Account from December 1998 to December 2008 to determine, among other things, whether the transactions were related to a BLMIS customer deposit or withdrawal.

23. The results of our analysis of the activity in the 703 Account from the available bank records for December 1998 to December 2008 are set forth in an Excel spreadsheet titled “JPMC 703 Account Activity – December 1998 to December 2008” which is attached as **Exhibit 4**.

24. In conducting our reconciliation of the cash transactions reported in the 703 Account bank records to the cash transactions reflected on the BLMIS customer statements, we first matched transactions based on the transaction date and amount, but also manually reviewed thousands of transactions to confirm our results. In addition, there were instances when we reconciled multiple transactions on the BLMIS customer statements to a single transaction on the BLMIS bank statements. For example, a deposit into the 703 Account that related to multiple BLMIS customers appeared as one transaction on the monthly bank statement for the 703 Account. In that case, we reconciled the 703 Account transaction to a combination of multiple BLMIS customer transactions.<sup>9</sup>

25. FTI assigned a unique identification number to each of the transactions reported on the available 703 Account bank statements. See “703 ID” in the first column of the detail tab of

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<sup>9</sup> As another example, BLMIS withheld certain amounts from foreign account holders and made payments to the Internal Revenue Service on behalf of these customers. In these cases, we reconciled one payment from the 703 Account to multiple related transactions per the BLMIS customer statements.